

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA

v.

ANDREW KASNETZ

No. 3:18-CR-345-L
ECF

**GOVERNMENT'S REQUEST FOR SPECIFIC
VOIR DIRE QUESTIONS TO THE JURY PANEL**

The United States of America files this request for specific questions to the jury panel pursuant to Fed. R. Crim. P. 24(a). Accordingly, the government requests that the Court ask the following questions of the jury panel:

General Questions

1. Do any of you personally know me, United States District Judge Sam A. Lindsay? If so, would that acquaintance tend to affect your ability to be fair and impartial?
2. Do any of you personally know Chad Meacham, the United States Attorney, or any of the members of his staff? If so, would that acquaintance tend to affect your ability to be fair and impartial?
3. Do any of you personally know Shane Read, Eduardo Palomo, or Abe McGlothin, the attorneys in charge of the prosecution of this case? If so, would that acquaintance tend to affect your ability to be fair and impartial?
4. Do any of you personally know Andrew Kasnetz, the defendant in this

case? If so, would that acquaintance tend to affect your ability to be fair and impartial?

5. Do any of you personally know Jeff Hall, the defense attorney in this case, or any other criminal defense attorney? If so, would that acquaintance tend to affect your ability to be fair and impartial? If so, would that acquaintance tend to affect your ability to be fair and impartial?

6. Are any of you related to, or acquainted with, any one of the following witnesses which the government states it intends to call?

7. There are many people on this jury panel. Do any of you recognize another member of the panel as being a relative, close friend, or associate?

8. Have any of you ever served on a federal or state grand jury?

9. Have any of you ever served as a juror in a federal or state trial?

a. If so, civil or criminal?

b. And if criminal, what type of a case?

10. If you have served as a juror in a federal or state trial, did the jury reach a verdict in that case? If you served as a juror in a state trial, were you called upon to determine a sentence?

11. Have any of you, your relatives, or close friends ever been involved as a witness, complainant, or the accused in a court proceeding of any kind? If so, would that experience affect your ability to be fair and objective toward both the government and the defendant in your consideration of the evidence in this case?

12. Have you ever been a party to a civil lawsuit?

13. Do any of you, or an immediate family member or close friend, have any training or experience in social work, psychology, or psychiatry? If so, would that training or experience affect how you decide guilt or innocence in a criminal case?

14. Does anyone have convictions, whether religious, philosophical or otherwise, that you could not, after hearing all the evidence and law in this case, pass judgment on another person in a criminal case by returning a verdict of guilty?

15. Just as a defendant is entitled to a fair trial, so is the government. Does anyone think or feel, that because of something in your background or your beliefs, that you would not give the government the same fair trial in a criminal case that you would give the defendant?

16. How many of you, your relatives, or close friends, have had any bad experience with the FBI, the United States Attorney's Office, or any law enforcement agency (state or federal)? What happened? How would that affect your ability to be fair and impartial in this case?

17. Have any of you had any dealings with any other federal governmental agency (e.g., IRS, EPA, ATF, etc.) that would affect your ability to be fair and impartial toward the government in your consideration of the evidence in this case?

18. How many of you have any negative feelings toward the federal government? How would that affect your ability to be fair and impartial toward the government in your consideration of the evidence in this case?

19. How would you describe the quality of police work in your community on

a scale of 1 to 10, with 10 meaning excellent and 1 meaning bad?

20. How many of you distrust law enforcement, or believe that law enforcement officers are not credible as witnesses?

21. How many of you would not consider the testimony of a police officer or detective for any reason?

22. Would anyone automatically vote not guilty if the government relied heavily on the testimony of law enforcement officers to prove its case?

23. As jurors, you may make reasonable deductions and logical conclusions from the evidence presented. In some instances, you may hear evidence which circumstantially links a defendant to the commission of a crime. Is there anyone who cannot consider circumstantial evidence, even if I instructed you that such evidence is proper?

24. Does anyone have a medical problem that would interfere with your ability to listen carefully to the testimony in this case?

25. Do any of you have any difficulty speaking, reading, writing or understanding the English language?

26. Can you think of any reason, if you are chosen to sit on this jury, why you might not be able to render a fair and impartial verdict based solely upon the evidence and the law as I will instruct you at the conclusion of the case?

27. Excluding traffic tickets, have any of you, a family member, or a close friend ever been arrested for, charged with, or convicted of a crime?

- a. If so, what type of crime?
- b. How was the case resolved?
- c. When was it resolved?
- d. Were you satisfied with the way that the case was handled by law enforcement, prosecutors and/or the court?
- e. Would that have any effect on your ability to be fair and impartial in evaluating this case or deliberating on a verdict?

28. It is my duty, as judge, to determine punishment if you find, after considering the evidence and my instructions as to the law you must apply, that the defendant is guilty of one or more counts in the indictment. The law does not permit you to consider the issue of punishment because there are factors, having nothing to do with this trial, which will help me determine the appropriate sentence, if any. Is there anyone who would vote "not guilty" because of the possibility that I may impose a jail sentence or any other particular sentence?

29. Does anyone believe that the federal criminal justice system is too harsh on criminals?

Case Specific Questions

Preliminary: The defendant in this case is charged with federal offenses that make it unlawful to receive visual depictions and possess images depicting minors and prepubescent children engaged in sexually explicit conduct. I refer to these laws using these specific terms because these terms have very particular meaning. For example

“minor,” means less than 18 years of age. “Sexually explicit conduct” also has a very specific meaning. But for the purpose of this questioning, I am going to refer to the offenses charged with the more familiar, short-hand characterization: “child pornography.” Of course, the Superseding Indictment is not evidence, and it is the government’s burden to prove its case beyond a reasonable doubt.

30. Do any of you know anything at all about the facts of this case?
31. Have any of you heard anything about this case since you arrived at the courthouse?
32. How many of you do **not** have a computer at home?
33. How many of you do **not** use a computer at work?
34. Of those of you that use a computer at home, how many of you do **not** have access to the internet?
35. Of those of you that use a computer at work, how many of you do **not** have access to the internet?
36. How many of you have **not** conducted a search for information or a product on the internet?
37. Do any of you consider yourself to be a computer expert?
(For those persons answering “yes”)
 - a. In what ways do you consider yourself an expert?
 - b. Do you write or have you written code for computers, engage in computer programming, or built or repaired any type of computer

hardware?

- c. Do you have a background in computer science, systems administration, or forensic computer examination?
- d. Even though you do not have a background in computer science, systems administration, or forensic computer examination, have you had some type of formal computer training?
 - i. If so, what kind of formal training?
- e. Do you consider yourself knowledgeable about computers because of self-education or hands-on experience?

38. Would the fact that this case involves receipt and possession of images of minors and prepubescent children engaged in sexually explicit conduct prevent you from rendering a fair and impartial verdict?

39. Do any of you feel such laws should **not** be enforced at all, enforced more vigorously than other laws or enforced less vigorously than other laws?

Preliminary: As I am certain you have surmised, a part of the evidence in this case will be the pictures and/or videos themselves, which the government allege: constitute child pornography. These pictures may be distasteful, disturbing, offensive, and unpleasant to view. However, the prospect of having to see distasteful, offensive or unpleasant evidence is not a basis to avoid the responsibility of jury service. Many cases, both criminal and civil, involve unpleasant things. If we excused prospective jurors on the ground that jury duty makes demands – including some unpleasant demands

– then we could not function. Moreover, the parties have the right to expect that prospective jurors will not seek to avoid jury service simply because they would rather not serve, or because they would like to avoid some unpleasantness.

40. Having said that, is there anyone who honestly believes there is some compelling reason why he or she could not be an impartial juror—that is to consider all of the evidence and follow the law—simply because pictures and videos depicting child pornography will be presented as evidence in the trial?

41. Also, it is anticipated that the evidence in this case may consist of graphic descriptions of, and discussions about, sexual activity between adults and minor children. Would being exposed to such descriptions and discussions make you too uncomfortable to allow you to sit as a juror in this case?

42. Do any of you have any opinions, religious beliefs, philosophies, or prejudices which would make you unable to come to a verdict in a case involving child pornography? For example, do you believe that no person should ever be judged or convicted for simply, accessing or receiving child pornography?

43. Do any of you think that it should **not** be a crime for someone to access or transmit child pornography in the privacy of their own home?

44. Even if you do not believe that it should be legal to access child pornography, do you think that the penalties for accessing child pornography are too harsh?

45. Does anyone believe that the government should **not** investigate and

prosecute child pornography offenses?

46. Does anyone believe that it is more important to rehabilitate a person for committing a crime involving child pornography than to punish that person for committing it?

Preliminary: Some people are of the mistaken belief that accessing child pornography by computer or the internet is activity that is protected by the Free Speech Clause of the First Amendment to our Constitution, or may otherwise be constitutionally protected activity. I tell you that – as a matter of law – this is not the case. Congress has passed laws that make it a criminal offense to access child pornography, and such activity is not protected by the First Amendment or by any other Constitutional right.

47. Before I informed you just now that accessing child pornography is not constitutionally protected conduct, did any of you believe that it was?

48. Do any of you believe that such activity should be protected by the First Amendment to the United States Constitution or by any other provision of the Constitution?

49. Would any of you have any difficulty abiding by my instruction that such activity is not – as a matter of law – protected by the First Amendment to the United States Constitution or by any other provision of the Constitution?

50. Do any of you object to the fact that there is no right under the First Amendment to the United States Constitution to use the internet or a computer to access child pornography?

51. Do any of you object to the fact that there is no right under the First Amendment to the United States Constitution to access images of child pornography, that is, visual depictions of minors (children less than 18 years of age) engaging in sexually explicit conduct?

52. Do you or anyone you know belong to any group which advocates or condones sexual relations between adults and children who are less than 18 years of age?

53. Do you or anyone you know subscribe to any publication that encourages or recommends sexual relations between adults and children who are less than 18 years of age?

54. The following question I am going to ask you will require a “yes” or “no” answer. If there is a “yes” answer I will note that and will, if you wish, discuss this matter with you individually and outside the presence of the other jury panel members. Have any of you, a family member, or a close personal friend been a victim of any form of sexual abuse as a child?

55. Do any of you know of any reason why you may be prejudiced for or against the government, for or against any witness, or for or against any defendant, because of the nature of the charges or otherwise?

The above questions are submitted by the government to aid in the intelligent exercise of challenges.

Respectfully submitted,

CHAD E. MEACHAM
UNITED STATES ATTORNEY

s/ Shane Read

SHANE READ
Assistant United States Attorney
Texas State Bar No. 16623950
1100 Commerce Street, Third Floor
Dallas, Texas 75242
Telephone: 214.659.8688
Facsimile: 214.767.4100
Email: shane.read@usdoj.gov

s/ Eduardo Palomo

EDUARDO PALOMO
Trial Attorney
Texas Bar No. 24074847
U.S. Department of Justice
1301 New York Ave. NW
Washington, D.C. 20005
Telephone: (202) 579-5738
Email: eduardo.palomo2@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2022, I electronically filed the foregoing document with the Clerk of Court for the United States District Court, Northern District of Texas, using the electronic case filing system of the Court. The electronic case filing system sent a Notice of Electronic Filing to the attorney(s) of record who have consented in writing to accept this Notice as service of this document by electronic means.

s/ Eduardo Palomo
EDUARDO PALOMO
Trial Attorney